

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,)
) File No. 17CR157
) (MJD-HB-1)
Plaintiff,)
)
vs.) Minneapolis, Minnesota
) April 3, 2019
Todd Seaver Knutson,) Courtroom 13E
) 11:53 a.m.
Defendant.)
)

BEFORE THE HONORABLE MICHAEL J. DAVIS
UNITED STATES DISTRICT COURT JUDGE
(SENTENCING)

APPEARANCES

For the Plaintiff: Assistant United States Attorney
ANDREW DUNNE, AUSA
300 South Fourth Street
Suite 600
Minneapolis, Minnesota 55415

For the Defendant: John C. Brink
JOHN C. BRINK, ESQ.
310 4th Avenue South
Suite 1008
Minneapolis, MN 55415

Court Reporter: MARIA V. WEINBECK, RMR-FCRR
1005 U.S. Courthouse
300 South Fourth Street
Minneapolis, Minnesota 55415

Proceedings recorded by mechanical stenography;
transcript produced by computer.

1 P R O C E E D I N G S

2 IN OPEN COURT

3 (11:53 a.m.)

4 THE COURT: Good morning. Please be seated.
5 Let's call this matter.

6 THE CLERK: United States of America versus Todd
7 Seaver Knutson, Criminal Case Number 17CR157.

8 Counsel, please state your appearances for the
9 record.

10 MR. BRINK: John Brink for Mr. Knutson, Your
11 Honor.

12 THE COURT: Good morning.

13 MR. DUNNE: Andrew Dunne on behalf of the United
14 States, Your Honor.

15 THE COURT: Good morning. Please step forward.
16 Before we get started, right after you left
17 chambers, Counsel, I received a report dealing with the
18 defendant up at Sherburne County, and I don't know if you
19 had seen this, Mr. Brink?

20 MR. BRINK: I had not seen it, Your Honor.

21 THE COURT: All right. It's something that's
22 serious, and I don't know where you stand on if you want to
23 proceed.

24 MR. BRINK: Yes, given his level of addiction,
25 Your Honor, it doesn't surprise me. He's had a very

1 difficult problem with drugs for his entire, well, I was
2 going to say adult life, but it goes back to his childhood.

3 THE DEFENDANT: I'm sorry, Your Honor. I mean it
4 was a huge mistake.

5 THE COURT: Speak into the microphone so I can
6 hear you.

7 THE DEFENDANT: I'm sorry, Your Honor. It was a
8 huge mistake on my behalf.

9 THE COURT: We'll get to that, sir. Just hold on.
10 All right. Let's proceed then.

11 Counsel, have you had an opportunity to review the
12 Presentence Investigation Report in this matter?

13 MR. BRINK: Yes, I have, Your Honor.

14 MR. DUNNE: Yes, Your Honor.

15 THE COURT: Any objections to the factual
16 statements contained in the Presentence Investigation
17 Report?

18 MR. BRINK: None other than those contained in my
19 position papers, Your Honor.

20 MR. DUNNE: No, Your Honor.

21 THE COURT: The Court will adopt the factual
22 statements contained in the Presentence Investigation Report
23 as its own. Counsel, have you had an opportunity to review
24 the advisory guideline calculations that have been prepared
25 for me?

1 MR. DUNNE: Yes, Your Honor.

2 MR. BRINK: Yes.

3 THE COURT: Any objections to those calculations?

4 MR. DUNNE: On behalf of the United States, Your
5 Honor, it's not that it's an objection to the calculations
6 as much as it is an error on my part in drafting the plea
7 agreement. The presentence report has concluded that
8 Mr. Knutson is a career offender looking at an applicable
9 guideline range of 262 to 327 months. That was not in the
10 plea agreement. I missed it. I drafted the plea agreement.
11 And I don't believe that Mr. Knutson should be punished
12 further based upon an error on my part. So I would ask the
13 Court to impose the guideline range that's in the plea
14 agreement which is 235 to 294.

15 THE COURT: Mr. Brink?

16 MR. BRINK: No objection to the calculation of the
17 guidelines, Your Honor. We do object to the appropriateness
18 of a sentence in that guideline range.

19 THE COURT: The Eighth Circuit just came down with
20 an opinion. I was reading it late last night. And Judge
21 Gruender dissented, and I agree with his dissent. And I
22 will agree to go along with the plea agreement, and the plea
23 agreement guideline range is 235, custody range of 235 to
24 293 months in custody. Supervised release of five years.
25 Fine range of 35,000 to \$350,000, and a special assessment

1 of \$100. All right, Mr. Brink?

2 MR. BRINK: Your Honor, just a couple of
3 housekeeping matters before I make my argument.

4 Paragraph 118 of the presentence report lists
5 Rebecca Portz as a person that Mr. Knutson was in a
6 relationship with. That relationship is over, and he's in a
7 relationship with a young lady named Joann Lietzau, and I
8 would ask that Ms. Portz's name be replaced by Ms. Lietzau's
9 name be replaced name in the report for visiting purposes
10 when Mr. Knutson goes into custody.

11 Number two --

12 THE COURT: Hold on for a minute. Any objection
13 to that?

14 MR. DUNNE: No, Your Honor.

15 THE COURT: Any objections from probation?

16 PROBATION OFFICER SMITH: No, Your Honor.

17 THE COURT: All right. Let's make that change.
18 Go ahead.

19 MR. BRINK: There are five sealed documents on the
20 docket sheet. And we are very concerned lest someone draw
21 the wrong inference from those sealed documents. Three of
22 them relate to the government's submission for sentencing
23 purposes regarding the Bureau of Prisons mental health
24 examination, and Mr. Dunne felt constrained to ask that that
25 be sealed because it dealt with mental health issues. We

1 have no objection to unsealing those documents, and they are
2 docket number 91, 92, and 93.

3 And the other two documents are docket 100, which
4 is a letter from Kim Herman to the Court regarding
5 sentencing. And docket 101, which is a letter from the
6 defendant's mother Jeanne Riege, and we would ask that those
7 two documents be unsealed as well.

8 THE COURT: Any objections from the government?

9 MR. DUNNE: No, Your Honor, and to I just want to
10 clarify. So the three documents that Mr. Brink referred to
11 regarding the government's filing is a motion to seal and an
12 order to seal and our sentencing memorandum is absolutely
13 right. It's not that I felt constrained. I think those are
14 the rules to follow when you're talking about mental health
15 issues and that's why it was filed under seal. If
16 Mr. Knutson has no objection to unsealing that document, I
17 don't have an objection either.

18 THE COURT: Dockets numbers 91, 92 and 93 will be
19 unsealed.

20 Let's deal with docket number 100 and 101. Any
21 objections to those?

22 MR. DUNNE: No, Your Honor.

23 THE COURT: Any objections to those being unsealed
24 from probation?

25 PROBATION OFFICER SMITH: No, Your Honor.

1 THE COURT: All right. Docket number 100 and 101
2 will be unsealed. So it's clear, five docket numbers will
3 be unsealed. Docket number 91, 92, 93, 100 and 101.

4 Mr. Brink?

5 MR. BRINK: And the last of those housekeeping
6 matters, Your Honor, is that *Setser*, spelled S-E-T-S-E-R,
7 *Setser v. The United States*, the citation for which is 566
8 U.S. 231, 2012 is the year, gives you the authority to make
9 whatever sentence you issue today concurrent with
10 anticipated sentences that Mr. Knutson will face in State
11 Court. He has pending in Lake County and Scott County,
12 Stearns County and Ramsey County, he has matters pending,
13 and we anticipate that those will be resolved before he goes
14 into the Bureau of Prisons custody. And I would ask that
15 you make whatever sentence you issue today to run
16 concurrently with those matters.

17 THE COURT: All right. Any objections from the
18 government?

19 MR. DUNNE: Yes, Your Honor. I haven't read this
20 case that Mr. Brink cites, and I think I should have had the
21 opportunity to read it so I could guide the Court in what
22 the applicable law is. In my experience, and this is a 2012
23 case, which is surprising to me, it's the law that you can't
24 make a sentence concurrent to something that hasn't happened
25 yet. And so whatever the State Court wants to do with those

1 four pending cases, it's in reaction to the sentence that
2 you impose because there's nothing to make it concurrent
3 with at this point.

4 THE COURT: Right. Do you have a copy of that
5 case, Mr. Brink?

6 MR. BRINK: I do.

7 THE COURT: We're printing it off now.

8 MR. BRINK: Here it is.

9 MR. DUNNE: Your Honor, I don't have time to read
10 this in a minute and give you an analysis.

11 THE COURT: Have a seat. I'm going to read it too
12 so.

13 (Pause for document reading.)

14 THE COURT: All right. Anything for the
15 government?

16 MR. DUNNE: Yes, Your Honor. First of all, I mean
17 what the case holds is that the District Court has the
18 discretion to impose a sentence consecutive not concurrent,
19 but the distinguishing characteristic about this case and
20 that included in *Setser v. United States*, and the case at
21 bar, *Setser* dealt with a probation violation based on the
22 federal offense. *Setser* was on probation with the state,
23 and it was his federal charge that served as the basis of
24 that probation violation. That's a completely different
25 matter here.

1 I can understand the argument if one of those four
2 pending cases against Mr. Knutson was that this federal
3 charge was a revocation of that, but they're four completely
4 unrelated state charges. One is for domestic assault by
5 strangulation. One is for an aggravated robbery. One is
6 for threats of violence to others, and the other is another
7 domestic assault. It has nothing to do with these federal
8 charges, and I would adamantly oppose the request by the
9 defendant.

10 THE COURT: Anything further, Mr. Brink?

11 MR. BRINK: No, thank you, Your Honor.

12 THE COURT: Okay. Anything else you wish to say
13 on behalf of your client?

14 MR. BRINK: Yes, there is, Your Honor.

15 Mr. Knutson is facing a statutory sentence of ten
16 years to life. His guidelines, as the Court has pointed
17 out, are 235 to 293 months. And we have asked the Court
18 because of his mental and emotional conditions and because
19 of his drug and alcohol dependence for the Court to depart
20 downward. We believe that this is borne out by both the
21 forensic evaluation that was done by the Bureau of Prisons
22 in which the evaluator described abuse of the defendant at
23 the young age of ten years from his mother's boyfriend.
24 Several head injuries that he suffered as a child, that his
25 mental health issues surfaced at age 8 or 9 with treatment

1 for attention deficit, hyperactivity disorder and bipolar
2 disorder.

3 Twice he was hospitalized for behavioral problems.
4 He's been prescribed multiple psychotropic medications
5 throughout his lifetime including anti-psychotics,
6 anti-depressants, mood stabilizers and psycho stimulants.
7 He suffered alcohol and substance abuse beginning at age 12.
8 This included alcohol, cannabis, methamphetamine, crack,
9 benzodiazepines, and opioids, all of which went untreated,
10 and he continued this behavior right up until he was
11 arrested for this case.

12 While he was being evaluated by the Bureau of
13 Prisons for his mental health, he attempted suicide by
14 ingestion of razor blades, batteries and a nail clipper.
15 The Bureau of Prisons psychologist diagnosed him as having
16 an extensive history of substance abuse with alcohol use
17 disorder, cannabis use disorder, stimulant use disorder, and
18 opioid disorder. Her final diagnosis was unspecified bipolar
19 disorder.

20 In 2010, he was hospitalized at St. Paul Regions
21 Hospital for seven days with delusions and visual
22 hallucinations and referred to Stearns County for
23 commitment. He was diagnosed with schizophrenia,
24 unspecified bipolar disorder, and various controlled
25 substance addictions.

1 He is sorely in need of major psychological and
2 drug abuse intervention. And while the guidelines provide
3 that these matters do not automatically create a ground for
4 departure, they are things that you can and should consider
5 in fashioning a sentence. He's basically been a drug addict
6 and mentally ill since about the age of ten years old.

7 And as the Court knows, Section 3553(a) restricts
8 the Court to a sentence sufficient but not greater than
9 necessary to comply with the purposes of Section 3553(a),
10 which I know the Court is conversant with. In my judgment,
11 a sentence to the mandatory minimum ten years imprisonment
12 followed by a suitable period of supervised release to
13 afford the defendant treatment for his mental and emotional
14 issues and substance abuse satisfies all the criteria of
15 3553(a).

16 And there's one more issue, Your Honor. That is
17 that if he were to be sentenced for a mixture of
18 methamphetamine, his guidelines would be 151 to 188 months.
19 And the *Kimbrough* case, *Kimbrough v. The United States* found
20 at 552 US 85 2007, provides that where there is not
21 empirical evidence to justify a sentencing guideline
22 provision, the District Court has the authority to grant a
23 variance to the defendant based on the Court's disagreement
24 with the particular guideline provision that's involved.
25 And I believe -- I don't think it's disputed that there is

1 no empirical evidence to justify the methamphetamine
2 guidelines, which now make a pound -- 1.5 kilograms of
3 methamphetamine actual is treated the same way as
4 8.4 kilograms of crack, 150 kilograms of powder cocaine, and
5 30 kilograms of heroin, and there doesn't seem to be any
6 justification for how they arrived that methamphetamine
7 should carry such a much heavier sentence than the other
8 drugs that I mentioned.

9 And people used to make the argument that the
10 purity of the methamphetamine bespoke a proximity to the
11 source of the methamphetamine, but that's been debunked
12 because most of the methamphetamine in Minnesota is over
13 90 percent pure.

14 And another problem is whether it's tested for
15 purity or not is purely arbitrary. I don't mean that in a
16 perjorative sense. I mean it's up to the local authority,
17 the local Assistant United States Attorney, and the local
18 law enforcement agency as to whether or not they want to
19 test for purity. As far as I know, there aren't any
20 standards to guide them in making that decision. The local
21 laboratory may be too busy to do it or the defendant may
22 plead guilty before it can be done, so it puts the defendant
23 in really a limbo land as to whether or not he is subjected
24 to the vastly increased penalties for pure methamphetamine
25 or a mixture. And in this case, that's a nine year swing

1 from the sentence for a mixture to the sentence for actual
2 meth.

3 And, finally, Your Honor, there was some mention
4 in the Bureau of Prisons forensic evaluation about Mr.
5 Knutson exaggerating symptoms. But local psychologist
6 Dr. Mary Kinney, who also examined Mr. Knutson, pointed out
7 in her report that that's one of the symptoms of his mental
8 health issues is exaggeration of symptoms. It's part of the
9 illness, so I don't think that you should draw any adverse
10 inference from that.

11 And, finally, Mr. Knutson would like to be
12 designated to either Oxford, Wisconsin; or to Greenville,
13 Illinois, Your Honor. With that, I thank you.

14 THE COURT: Dealing with the 152; 151 to 188
15 sentence, Mr. Brink, you're asking the Court to go to 120.

16 MR. BRINK: I would ask you to go to 120, but 151
17 is better than where I am right now.

18 THE COURT: All right, thank you.

19 Todd, this is your opportunity to speak to me.
20 You have an absolute right to talk to me. You have an
21 absolute right to tell me anything that you want to tell me
22 about yourself, about this offense or anything else that you
23 think I should know before I sentence you. Please talk to
24 me.

25 THE DEFENDANT: Hi, Mr. Davis.

1 THE COURT: Speak in to microphone. Pull the
2 microphone up.

3 THE DEFENDANT: My name is Todd Knutson. I grew
4 up in St. Paul, Minnesota. Kind of grew up all over.

5 THE COURT: Why don't you go to the microphone
6 that Mr. Brink has because for some odd reason that one
7 works better.

8 THE DEFENDANT: I kind of grew up all over the
9 years. Like it's already known to you, through my drug use
10 and everything else, I started out young. You know I've
11 been struggling with a lot of problems throughout my whole
12 life. I want to take this time to apologize. I don't even
13 know how my life got to where it got. Really I don't. The
14 understanding of where my life started and to where I'm at
15 today just doesn't make any sense to me.

16 I got all my beautiful family here. I'm wrecking
17 their lives through what I got going on, and it doesn't make
18 any sense to me. I can only imagine what it looks like to
19 you looking in. The Sherburne County reports and everything
20 else, it doesn't make any sense. Why doesn't this guy
21 straighten up?

22 I've been through, I've been through it time and
23 time again. And, God, I don't know. I need help. I
24 definitely need help. And I'm looking to you for that. And
25 I just ask for forgiveness and leniency from the Courts.

1 And I don't know, the drugs just get ahold of me where I was
2 focused on everything. I was focused on life. I was
3 focused on who I am. I get caught up in this paranoia.
4 This unreal paranoia. I mean it's real. It's real to me.
5 I mean I struggle with stuff. I struggle with, with a lot
6 of things that probably ain't even there, but at the time I
7 believe they're there.

8 And like I wrote to you in the letter, when I was
9 requesting to tell you I just want to be able to have a
10 chance to get out and still be a productive member of
11 society, and get out from all my kids sitting over there,
12 they're all my kids, and they're all going to be old enough
13 as it is when I get out.

14 I messed up, and I messed up big. I just, I just
15 need one chance, one chance, you know what I'm saying? And
16 with that, I'll end.

17 THE COURT: Anything else, sir?

18 THE DEFENDANT: No, sir.

19 THE COURT: All right. Anything for the
20 government?

21 MR. DUNNE: Yes, Your Honor.

22 THE COURT: Is your microphone on?

23 MR. DUNNE: I think it is. Is it now?

24 THE COURT: It is.

25 MR. DUNNE: When I get ready for a sentencing, the

1 procedure that I go through is I look at the factors in the
2 case, and I compare them to the sentencing factors that are
3 set forth in 3553(a). And the case factors that I review
4 are a defendant's criminal history and, specifically, the
5 acts that the defendant is accused of engaging in to compile
6 that criminal history. I look at the offense conduct, the
7 entire course of conduct, and then I look at the 3553(a)
8 factors to determine whether in my experience working in the
9 criminal justice system, did the guideline range get it
10 right? Is it too heavy or is it too light? And I
11 respectfully submit to the Court that in this case, it got
12 it just right, and I'll talk about the factors that I
13 reviewed.

14 First of all, the criminal history. It's
15 astonishing. It's long. It's consistent. It goes back 20
16 years. It includes convictions for repeated acts of
17 violence and assaultive behavior, multiple domestic
18 assaults, multiple assaults, multiple terroristic threats,
19 multiple fleeing from police, attempted arson, multiple
20 thefts, burglary, criminal vehicular operation and drugs.

21 He has an astonishingly high 38 criminal history
22 points that are three times the necessary amount to put
23 someone in a Category 6, which is 13 points. He has four
24 pending state matters that also are crimes of violence. So
25 this pattern that was built up over the last 20 years has

1 only continued. That's the criminal history component.

2 But then I looked at the offense conduct, and
3 Mr. Brink talked about the methamphetamine and the three
4 pounds of methamphetamine, and as an aside, I will tell you
5 I don't know where the 151, 188 number comes up with. Does
6 it take into consideration there were seven guns? Does it
7 take into consideration that there's a Criminal History
8 Category 6 with 38 criminal history points? I don't know
9 where the numbers come up with.

10 But let's look at the offense conduct because in
11 addition to the three pounds of methamphetamine, there's
12 seven guns. Four of which were stolen, one SKS assault
13 rifle, one MAC-10 machine gun, numerous rounds of
14 ammunition, magazines for an assault rifle that were taped
15 together to enhance the ability to shoot multiple rounds, a
16 bulletproof vest, a surveillance system both inside and
17 outside the residence.

18 Law enforcement, and I have an FBI agent in the
19 courtroom right now was so concerned about their own
20 physical safety that they set up on the house on Arkwright
21 waited for Mr. Knutson to leave on his motorcycle before
22 they executed the warrant because they didn't want a stand
23 off or to put themselves in danger.

24 It's serious criminal conduct to go along with the
25 significant criminal history. So I look at the 3553(a)

1 factors to compare them to those case factors that I just
2 talked about. And the four factors that have particular
3 relevance to me, the nature of the offense, the need for the
4 sentence to reflect the seriousness of that offense, the
5 criminal history of the defendant, and the need to protect
6 the public from further criminal activity.

7 And so when I weigh those case factors, the long,
8 significant, violent, assaultive criminal history, the
9 offense conduct involving an armed fortress, with those four
10 sentencing factors that I just talked about, a guideline
11 range in the plea agreement is absolutely appropriate in
12 this case.

13 I just also want to say one last thing about the
14 psychological components of this case. You know, when I got
15 Dr. Kinney's report, I initially was going to object. It
16 was late. There's no notice. The forensic report from the
17 Bureau of Prisons was dated in September of 2018. This is
18 March of 2019. The date on the report is March 5th.
19 Mr. Brink doesn't even submit it until after hours on
20 Friday, March 22nd, a week before the sentencing. And so I
21 was going to object, I wanted more time.

22 But then I read the report, I don't blame
23 Mr. Brink for doing that. When there's a BOP forensic
24 report that accuses your client of malingering and
25 exaggerating symptoms because they want reduced consequences

1 for their criminal behavior, I'm going to get an independent
2 psychiatric evaluation as well because I don't want to incur
3 the wrath of a judge looking at that diagnosis of
4 malingering.

5 When then when I read Dr. Kinney's report, she
6 said the same thing, he's malingering. Now she comes up
7 with multiple reasons for malingering, including the
8 diagnosis of the forensic evaluator for the Bureau of
9 Prisons, but the fact of malingering is there. And so if
10 you were to say what effects does this have on the sentence
11 imposed? The answer is none. It's malingering. It's based
12 on a false premise. It's based on a diagnosis that is in
13 doubt is in question.

14 Dr. Feldman, who didn't just visit with
15 Mr. Knutson for an hour and read one report to come up with
16 a valuation, it was a report that was done after 30 days of
17 observation, of significant testing, of reviewing all
18 criminal history records, of reviewing all mental health
19 records, of reviewing all offense conduct records,
20 Dr. Feldman says, "the defendant did not demonstrate any
21 active symptoms of a major psychiatric disorder that would
22 effect his sentence. It was likely that the defendant was
23 malingering psychiatric and a cognitive impairment in an
24 effort to receive a reduced or no legal repercussions for
25 his criminal behavior."

1 And this is the one I'm worried about, Dr. Feldman
2 concludes that the defendant's mental state is relatively
3 stable. His psychiatric prognosis is favorable. However,
4 because his history of criminal activities and substance
5 abuse place him at a risk of recidivism for such type of
6 behaviors.

7 And when you look at the 3553(a) factors, one of
8 those factors is the need to protect the public. That's my
9 job as a prosecutor and that's why I feel the guideline
10 range lower than set forth in the presentence report, but
11 that was my plea agreement and my error. That's an
12 appropriate guideline range to impose in this case. Thank
13 you.

14 THE COURT: Thank you. On January 11, 2018, the
15 defendant pled guilty to possession with intent to
16 distribute 500 grams or more of methamphetamine mixture, in
17 violation of Title 21, United States Code Section 841(a)(1)
18 and (b)(1)(a). It is considered and adjudged that the
19 defendant is guilty of that offense.

20 The Court has read the Presentence Investigation
21 Report. The Court has read all the medical documents that
22 have been submitted to the Court. The Court has read all
23 the pertinent and all the legal arguments that had been
24 submitted to the Court by both counsel. The Court has read
25 all the pertinent United States Supreme Court decisions, and

1 I read one this morning. And all the Eighth Circuit Court
2 of Appeals decision and other Circuit Court decisions that
3 would pertain to this case.

4 The Court has also reviewed the defendant's
5 criminal history very closely. And the Court in its
6 reasoned opinion did not go with the higher guidelines and
7 will go with the plea negotiations, which, as the government
8 has stated, is in error. And the custody range under the
9 guidelines that were presented to the Court through the plea
10 agreement was 235 to 293.

11 And, of course, the Court will apply the factors
12 under Title 18, Section 3553(a) in sentencing the defendant
13 here today, and the Court will determine and give the proper
14 sentence that is sufficient but not greater than necessary
15 in sentencing this defendant.

16 The defendant is hereby committed to the care and
17 custody of the Bureau of Prisons for a term of 235 months.
18 The Court will recommend that he be housed in a
19 penitentiary, whether or not that's Leavenworth, Kansas;
20 Oxford, Wisconsin; or Florence, Colorado. There's no fine
21 imposed.

22 Dealing with the preliminary order of forfeiture,
23 have I signed that?

24 THE CLERK: I think so.

25 MR. BRINK: Yes, a preliminary order has been

1 signed.

2 THE COURT: All right. The defendant is sentenced
3 to a term of five years supervised release. The following
4 mandatory conditions are applicable:

5 The defendant shall not commit any crimes,
6 federal, state, or local.

7 The defendant shall not unlawfully possess a
8 controlled substance. The defendant shall refrain from any
9 unlawful use of a controlled substance.

10 The defendant shall submit to one drug test within
11 15 days of release from imprisonment and at least two
12 periodic drug tests thereafter.

13 The defendant shall cooperate in the collection of
14 DNA as directed by the probation officer.

15 Next, the defendant shall abide by the standard
16 conditions of supervised release that have been adopted by
17 this Court, including the defendant must report to the
18 Probation Office in the federal judicial district where the
19 defendant is authorized to reside within 72 hours of the
20 defendant's release from imprisonment, unless the probation
21 officer instructs the defendant to report to a different
22 Probation Office or within a different time frame.

23 And the defendant shall not own, possess or have
24 access to firearm, ammunition, destructive device or any
25 other dangerous weapon.

1 Next, the defendant shall comply with the
2 following special conditions:

3 The defendant shall abstain from the use of
4 alcohol and other intoxicants and not frequent
5 establishments where the primary business is the sale of
6 alcoholic beverages.

7 Next, the defendant shall submit his person,
8 residence, office, vehicle or any other area under the
9 defendant's control to a search conducted by a United States
10 probation officer or supervised designee at a reasonable
11 time and in a reasonable manner based upon reasonable
12 suspicion of contraband or evidence of a supervision
13 violation.

14 The defendant shall warn any other residents or
15 third parties that the premises and areas under the
16 defendant's control may be subject to searches pursuant to
17 this condition.

18 Next, the defendant shall participate in a
19 psychological and/or psychiatric counselling or treatment
20 program as approved by the probation officer.

21 Further, the defendant shall contribute to the
22 costs of such treatment as determined by the Probation
23 Office copayment program not to exceed the total costs of
24 treatment.

25 Next, the defendant shall reside for a period of

1 120 days in a residential re-entry center as approved by the
2 probation officer and shall observe the rules of that
3 facility.

4 And, finally, there's a one hundred dollars
5 special assessment payable to the Crime Victims Fund, which
6 is required by statute to be paid immediately.

7 The Presentence Investigation Report will be
8 amended by those corrections that I've made. And also in
9 the Presentence Investigation Report, I want a paragraph
10 dealing with the new violation dealing with drug use while
11 he was in Sherburne County.

12 PROBATION OFFICER SMITH: Yes, Your Honor.

13 THE COURT: Now, sir, the most time that you've
14 ever spent was 51 months in prison. And now I'm giving you
15 235 months, and it's probably not comprehensible to you.
16 I've gone over every inch of your Presentence Investigation
17 Report. The violence that are involved in your cases
18 compels me to protect the public.

19 THE DEFENDANT: Two cases I've ever had that were
20 violent.

21 THE COURT: Well, you want to tell me that you
22 took a sledge hammer to somebody's head?

23 THE DEFENDANT: No, I didn't take a sledge hammer
24 to nobody's head. What I pled out to I used my fist. I got
25 into a fight. I tried to argue that in my PSI report, but

1 it didn't get clarified. If he would got hit in the head
2 with a sledge hammer, he would be dead.

3 THE COURT: The sentence is 235 months in prison.

4 MR. DUNNE: Your Honor, the government would move
5 to dismiss the remaining counts of the indictment.

6 THE COURT: Sir, you have a right to appeal my
7 sentence to the Eighth Circuit Court of Appeals, which sits
8 in St. Louis, Missouri. That appellate court reviews all my
9 sentences to make sure that I follow the law and the
10 Constitution in sentencing you.

11 You have ten days or is it 14? I can't remember.

12 THE CLERK: 14.

13 THE COURT: 14 days to file that Notice of Appeal
14 to the Court of Appeals. I will appoint Mr. Brink as your
15 attorney, and I'm ordering him to file that notice so your
16 appeal rights are protected. Once that is done, you have a
17 right to hire your attorney or represent yourself or
18 continue with Mr. Brink as your attorney and that decision
19 is up to you on your appeal. Because the sentence is so
20 substantial, I want to make sure that your appeal rights are
21 protected.

22 As to the defense motion to make my sentence
23 concurrent to any pending sentences, the Court will deny
24 that. It's just one issue I don't need to come back to me
25 dealing with that. And it's my 36 years of experience as a

1 judge, State Court, once they see 235 months, they're not
2 going to give a consecutive sentence, and so there's no need
3 for the Court to muddy the issue dealing with that.

4 Anything further for the government?

5 MR. DUNNE: No, Your Honor.

6 THE COURT: All right.

7 MR. BRINK: Excuse me, Your Honor.

8 THE COURT: Excuse me, the motion to dismiss those
9 counts are granted if I didn't say that.

10 Yes, Mr. Brink?

11 MR. BRINK: I believe the law requires me to ask
12 you, Your Honor, you mentioned as a 3553(a) factor,
13 protection of the public. Are there any other 3553(a)
14 factors upon --

15 THE COURT: All the -- I can address all of them,
16 and I do in my written memorandum, but I wanted to emphasize
17 the protection of the public. But I should, so there's no
18 confusion with the Eighth Circuit, I'll go through it.

19 The Court has reviewed the factors under 3553(a),
20 and that's the nature and circumstances of the offense, and
21 the history and characteristics of the defendant. The Court
22 has reviewed to reflect the seriousness of the offense, to
23 promote respect for the law and to provide just punishment
24 for the offense, to afford adequate deterrence to criminal
25 conduct, and to protect the public from further crimes of

1 the defendant, to provide the defendant with needed
2 educational, vocational training, medical care or other
3 correctional treatment in the most effective manner, and to
4 avoid unwarranted sentencing disparities among defendants
5 and to provide restitution to any victims of this offense.

6 And if I've missed any other sections of 3553(a),
7 they will be covered in my written memorandum.

8 MR. BRINK: Your Honor, could I ask you to
9 recommend the Residential Drug Abuse Program for
10 Mr. Knutson?

11 THE COURT: So ordered. The Court will recommend
12 that the Bureau of Prisons evaluate him to see if he's a
13 candidate for the DAP program, and if he is, I would hope
14 that he would enter into that program and successfully
15 complete it.

16 MR. BRINK: Thank you, Your Honor.

17 THE COURT: Anything else for the defense?

18 MR. BRINK: No, Your Honor. Thank you.

19 THE COURT: Remanded to the custody of the United
20 States Marshal.

21 THE CLERK: All rise.

22 (Court adjourned at 12:51 p.m.)
23

24 * * *
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

I, Maria V. Weinbeck, certify that the foregoing is
a correct transcript from the record of proceedings in the
above-entitled matter.

Certified by: s/ Maria V. Weinbeck

Maria V. Weinbeck, RMR-FCRR